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FISCAL IMPACT STATEMENT

LS 6689

BILL NUMBER: SB 302

NOTE PREPARED: Mar 18, 2008

BILL AMENDED: Mar 13, 2008

SUBJECT: Professions and Occupations.

FIRST AUTHOR: Sen. Mishler

FIRST SPONSOR: Rep. Welch

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Simultaneous Communication at Board Meetings- The bill allows members of certain licensing boards to participate in emergency meetings to suspend the licenses of practitioners who represent a clear and immediate danger to the public health and safety, if a means of communication is used that allows all board members and the public to simultaneously communicate with each other.

State Boxing Commission- The bill allows members of the State Boxing Commission to participate in meetings to consider final approval of a permit for a particular boxing, sparring match, or exhibition, if a means of communication is used that allows all commission members and the public to simultaneously communicate with each other.

Renewal of Expired Certificates and Licenses- The bill makes changes in the procedures for renewal of expired certificates and licenses, and provides that the Professional Licensing Agency (PLA) is to set the times for license renewals for: (1) accountants; (2) acupuncturists; (3) architects; (4) landscape architects; (5) athletic trainers; (6) auctioneers; (7) auction houses; (8) auction companies; (9) barbers; (10) cosmetologists; (11) tanning facilities; (12) chiropractors; (13) dental hygienists; (14) dentists; (15) dietitians; (16) embalmers, funeral directors, and funeral homes; (17) health facility administrators; (18) hearing aid dealers; (19) home inspectors; (20) hypnotists; (21) land surveyors; (22) physicians; (23) nurses; (24) manufactured home installers; (25) optometrists; (26) pharmacists, pharmacies, drug stores, and home medical equipment service providers; (27) plumbers; (28) podiatrists; (29) private investigator firms, security guards, and polygraph examiners; (30) professional engineers; (31) environmental health specialists; (32) psychologists; (33) real estate brokers and sales persons; and (34) speech pathologists and audiologists.

Architects, Accountants, and Acupuncturists- The bill makes changes to the qualifications for licensing of out-of-state architects, accountants, and acupuncturists. The bill makes changes to the qualification criteria for approval to sit for the licensing examination for architects.

Collaborative Practice Agreements- The bill prohibits advanced practice nurses from entering into collaborative practice agreements with physician assistants.

Health Facilities Administrators Board- The bill reduces membership on the State Board of Health Facility Administrators from 14 to 13, and makes conforming changes.

Physician Provisional Licenses- The bill establishes qualifications for a provisional license for physicians.

Definitions- The bill adds a definition of "dispense" to the law concerning controlled substances.

Advance Practice Nurses- The bill provides that advanced practice nurses with prescriptive authority are subject to certain restrictions regarding drug samples.

Accountants- The bill makes changes to the membership of the Board of Accountancy.

Miscellaneous Provisions- The bill provides that a physician assistant who renders care in response to an emergency under the state emergency management law is not required to comply with the law requiring supervision by a physician. The bill makes other changes relating to the law concerning occupations and professions.

Repealers, Technical Conflict Resolution- The bill repeals a provision allowing real estate brokers and salespersons to use a notice of passing the required licensing examination as a temporary permit to practice. The bill repeals superseded sections in the licensing laws and a definition of "dispenser" in the controlled substances law. The bill amends a statutory reference to resolve a technical conflict with SB 190 (the agriculture and animals recodification bill).

Nonresident Pharmacists- The bill requires a nonresident pharmacy that dispenses more than 25% of the pharmacy's total prescription volume through the Internet to have certain accreditations and display the accreditation in advertisements. The bill allows the Board of Pharmacy to take certain action against a nonresident pharmacy for not being accredited or for failing to display the accreditation.

Definition of Home Medical Equipment and Services- The bill removes specified home medical equipment from the definition of "home medical equipment" and redefines the term as equipment that is prescribed by a health care provider and either: (1) sustains, restores, or supplants a vital bodily function; or (2) is technologically sophisticated and requires individualized adjustment or maintenance. The bill defines "home medical services" to require both the: (1) sale, rental, delivery, or installation of home medical equipment; and (2) installation, maintenance, and instruction in the use of the equipment.

Effective Date: July 1, 2008; January 1, 2009.

Explanation of State Expenditures: *Simultaneous Communication at Board Meetings-* This provision could provide minimal savings to board and committee expenditures. If certain board or committee members did not have to travel to a particular location in order to discuss disciplinary sanctions, there would be a savings to the PLA in the form of reduced mileage compensation. The potential savings to state expenditures would

depend on the number of emergency meetings for disciplinary action conducted under the requirements of this provision. [The PLA expended \$95,027 in mileage reimbursement during FY 2007.]

State Boxing Commission- The State Boxing Commission members approve on average 50 boxing or sparring matches per year. If the three members did not have to travel to meet for approval of the final details of matches, there would be a sizeable reduction in per diem and mileage costs to the PLA.

Architects- The Architecture Board would have to develop rules establishing requirements for an intern development program. The Board would likely be able to accomplish the rule making during scheduled business meetings.

Health Facilities Administrators Board (HAFB)- Reduction in membership of the HAFB would provide minimal savings in per diem and mileage costs to the PLA.

Renewal of Expired Certificates and Licenses- Implementation of this provision should have a minimal impact to board and PLA expenditures. The provision would give the boards more authority to determine whether a particular applicant would have to sit for their profession's examination if the license was expired for more than three years (four in certain cases). Boards would be able to more closely evaluate each renewal applicant on a case-by-case basis.

Background- This provision would attempt to conform the above-listed professional boards and committees to the requirements of IC 25-1-8-6 for purposes of renewal of an expired license. With limited exceptions, the bill would conform each of these board statutes to reflect the three- or four-year grace period for renewal allowed under current law. For licenses renewed before the grace period has elapsed, the renewal provisions under IC 25-1-8-6(c) would apply. These provisions include the following:

- A. Submission of the renewal application.
- B. Payment of the current renewal fee established by the particular professional board.
- C. Payment of a reinstatement fee established by the PLA.
- D. If required, a sworn statement, signed by the license holder, that continuing education requirements have been fulfilled. Otherwise, the license holder must meet any other additional requirements of current law.

If the grace period has expired, then IC 25-1-8-6(d) would apply, which includes the following requirements for renewal:

- A. Submission of the holder's completed renewal application.
- B. Payment of the current renewal fee established by the board under Section 2 of this chapter.
- C. Payment of a reinstatement fee equal to the current initial application fee.
- D. If required, a sworn statement, signed by the license holder, that continuing education requirements have been fulfilled. Otherwise, the license holder must meet any other additional requirements of current law.
- E. Complete remediation and additional training as determined by the board.
- F. Any other requirement that is provided for in statute or rule that is not related to fees.

Explanation of State Revenues: *Collaborative Practice Agreements-* Under the bill, collaborative practice agreements between an advanced practice nurse and physician's assistants would no longer be allowed. A

violating agreement would constitute a Class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

Acupuncturist Licensing Requirements- It is unknown as to whether this provision could affect the number of out-of-state applicants in the future. As of October 31, 2007, there were 77 licensed acupuncturists, 85 chiropractor acupuncturists, and a DDS acupuncturist licensed by the PLA.

Physician Provisional Licenses- This provision could increase state revenues by placing certain physicians under a provisional license that otherwise would not qualify for a standard physician's license. The fee for a provisional license under the bill would be \$250, the same as an endorsement for an initial standard physician's license.

Advance Practice Nurses- Under current law, a practitioner (which under the bill would include advance practice nurses) that knowingly or intentionally violates drug sample law commits a Class B misdemeanor. Any revenue that may be generated by this provision in the form of fines and court fees is likely to be minimal.

Nonresident Pharmacists- Under this provision, a noncomplying nonresident pharmacist could face revocation or suspension of an existing registration with the Board of Pharmacy. If additional revocations or suspensions occur to registered individuals as a result of this provision, state revenue from registration renewal fees could decline. However, any revenue loss would be minimal because the vast majority of registered nonresident pharmacists are already certified to solicit prescription orders on the Internet. As of October 2007, there were 419 nonresident pharmacists registered with the Board. The current renewal fee for pharmacists is \$200.

Explanation of Local Expenditures: *Penalty Provision-* A Class B misdemeanor is punishable by up to 180 days in jail.

Explanation of Local Revenues: *Penalty Provision-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Professional Licensing Agency.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: State Budget Agency; Auditor's Data; Wade Lowhorn, Professional Licensing Agency, 317-232-3901.

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